

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TERRANCE JOE QUINLAN,

Plaintiff,

v.

CITY OF SEATTLE, SEATTLE POLICE
DEPARTMENT,

Defendants.

Case No. C22-445 TSZ-TLF

REPORT AND
RECOMMENDATION

NOTED FOR JULY 1, 2022

On April 5, 2022, plaintiff filed a Motion for Leave to Proceed In Forma Pauperis (Dkt. 1), with respect to his proposed civil rights complaint (Dkt. 1-1). On May 3, 2022, the Court ordered plaintiff to show cause why the complaint should not be dismissed for failure to state a claim. Dkt. 5. The Court informed plaintiff that his excessive fines claim under the Eighth Amendment would be more appropriately raised in a habeas corpus petition and further, that his complaint fails to state a claim against the City of Seattle. *Id.* at 2-4. Specifically, plaintiff's proposed complaint failed to allege facts that the Seattle Police Department's policies or customs were the moving force for the alleged unconstitutional violations or that the Seattle Police Department ratified any unlawful conduct. *Id.* at 4.

Given the identified deficiencies in the proposed complaint, the Court did not grant Plaintiff's IFP application. Dkt. 5. The Court issued an Order to Show Cause, allowing Plaintiff until June 10, 2022, to show cause why his complaint should not be

1 dismissed or file an amended complaint. *Id.* at 5. Plaintiff has not responded to this
2 Order. Accordingly, the undersigned recommends that the Court DENY plaintiff's IFP
3 application and dismiss his action without prejudice for failure to prosecute.

4 A plaintiff is not entitled to submit written objections to the Magistrate Judge's
5 report and recommendation that IFP status should be denied. *Minetti v. Port of*
6 *Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998)(per curiam). Denial of a motion to
7 proceed IFP is an immediately appealable order. *Tripati v. Rison*, 847 F.2d 548,
8 548-549 (9th Cir. 1988). Under *O'Neal v. Price*, 531 F.3d 1146, 1151-1156 (9th Cir.
9 2008), the second amended complaint should be dismissed without prejudice.

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12 Dated this 16th day of June, 2022.

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16 Theresa L. Fricke
17 United States Magistrate Judge
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